

REMARKS

Claims 1-64 remain in the application. Claims 1-64 have been rejected. Claims 1, 3, 6-8, 10-13, 22-23, 27-31, 36, 44-49, 53, and 60-64 have been amended. Claim 5 has been canceled. Applicant respectfully requests reconsideration based upon the amendments and the following reasons.

CLAIM REJECTIONS UNDER 35 USC §101

The Office Action has rejected claims 1-64 under 35 USC §101 as directed to non-statutory subject matter. Although Applicant disagrees with this rejection, in order to advance prosecution, claims 1, 31, and 48 have been amended to include the result of determining whether a query email is SPAM or non-SPAM. That is a concrete and tangible result and the rejection should be withdrawn.

CLAIM REJECTIONS UNDER 35 USC §103

The Office Action has rejected claims 1, 4-21, 27-42, 47-59, and 64 under 35 USC 103(a) as being unpatentable over Rothwell et al. (US 6,769,016) in view of Kircher (US Pub No. 2003/0195937).

As to claim 1, the Office Action concedes that Rothwell does not teach assigning attributes to the patterns and using the patterns with the assigned attributes to analyze the query email message. However, the Office Action contends that Kirchner teaches assigning attributes to the patterns and using the patterns with the assigned attributes to analyze the query email message. Claim 1 has been amended to add the step of creating a pattern database comprising a plurality of patterns, derived from and associated with an annotated database of known SPAM messages, and attributes representing features of the annotated database and wherein each pattern occurs two or more times in the annotated database. Support for this can be found in paragraphs [0050] and [0053]. The combination of Rothwell and Kircher neither teaches nor suggests this step. As noted above, Rothwell does not teach creating a pattern database by assigning attributes to the patterns and using the patterns with the assigned attributes to analyze the query email message.

By contrast to the claimed invention, Kircher extracts determinable attributes of the electronic message being analyzed and then applies a plurality of rules and user defined parameters to the attributes to obtain a ranking. Kircher does not create a pattern database at all, let alone use the information in that database to analyze the query email message.

Claims 2-30 are directly or indirectly dependent on claim 1 and are hence patentable for the foregoing reasons.

Claim 31 is a machine counterpart of claim 1 and claim 48 is a manufacture counterpart of claim 1. These claims and their dependent claims distinguish patentably from the references cited for the foregoing reasons.

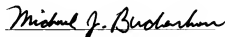
In summary, the combination of the cited references still lacks:

- (a) the step of creating a pattern database comprising a plurality of patterns, derived from and associated with an annotated database of known SPAM messages, and attributes representing features of the annotated database; and
- (b) the feature that each pattern occurs two or more times in the annotated database.

Thus, the combination of the cited references still does not teach or suggest all of the elements of claims 1, 31, and 48, as amended. Therefore, a *prima facie* case of obviousness has not yet been established.

In view of the preceding, the rejection of the currently pending claims under 35 USC 103(a) as being unpatentable over Rothwell et al. (U.S. Patent No. 6,769,016) in view of Kircher (U.S. Publ. No. 2003/0195937) should be withdrawn and claims 1, 31, and 48, and the claims depending directly or indirectly therefrom, should be allowed.

Respectfully submitted,



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